

APPLICATION: MA/12/0232 Date: 10 February 2012 Received: 14 February 2012

APPLICANT: Tesco Stores Ltd

LOCATION: LAND AT STATION APPROACH AND, GEORGE STREET,
STAPLEHURST, KENT

PARISH: Staplehurst

PROPOSAL: Erection of a class A1 retail store, associated parking and petrol filling station; transport interchange comprising bus and taxi drop-off/pick up facilities, 39 short stay railway station car parking spaces, and covered walkway to existing railway station building; and 660-space commuter car park and nature area the Phase 1 desk Study Environmental Assessment; Transport Assessment; Community Consultation Statement; Planning and Retail Statement; Flood Risk Assessment; Ecological Assessment; Interim Travel Plan; Landscape Supporting Statement; Design and Access Statement; site location plan; plan number 1674/P/09 A; 1674/P10 A; as received on 13 February 2012, plan number 1674/P/01 J; 1674/P/07 B; AA TPP 04; 1674/P/02 F; 1674/P/10 B; 1674/P/08 E; as received on 17 May 2012; Cumulative Impact Assessment (retail); Cumulative Impact Assessment (highways) as received on 7 September 2012, additional landscape and visual information submitted on the 13 December 2012, and draft Heads of Terms submitted on 17 December 2012.

AGENDA DATE: 16th May 2013

CASE OFFICER: Chris Hawkins

The recommendation for this application is being reported to Committee for decision because:

- It is a departure from the Development Plan.
- The Parish Council requested that the application be reported to Planning Committee.

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: T7, T13, ENV6, ENV28, ENV49
- Draft Core Strategy 2011: CS1, CS4, CS5, CS6, CS7, CS8
- Draft Integrated Transport Strategy (2012)

- National Planning Policy Framework 2012 (NPPF); Ministerial Planning for Growth Letter; Planning for Town Centres: Practice guidance on need, impact and the sequential approach (December 2009)

2. **HISTORY**

'Site A' – the eastern section of 'land to the north of the railway line'

MA/97/1102	Application to vary condition 01 of MA/94/0960 to allow a further 3 years for the submission of detailed design and landscaping for the erection of a health centre (incorporating 6 squash courts, ponds and landscaping). Approved.
MA/97/0457	Variation of condition 01 attached to MA/94/0341 to allow a further period in which to commence the development originally permitted under MA/90/1627E. Approved.
MA/94/0960	Application under S73 of the Town & Country Planning Act 1990 to develop land without complying with conditions 1b & 2 of Outline Permission MA/91/0419E.
MA/94/0341	An application to carry out development permitted under MA/90/1627 E without compliance with condition 1 to allow a further time period in which to commence the development. Approved.
MA/91/0419	Outline Application for 2 storey squash and health club with car parking. Approved.
MA/90/1627	Change of use to open air recreation, tennis courts with landscaping. Refused. Allowed on Appeal.

'Site B' – the western section of 'land to the north of the railway line'

MA/92/1374	Erection of stable block (portable building) for five horses. Approved.
MA/98/0443	Variation of condition 01 of planning permission reference MA/92/1374s to allow a further time period in which to commence the development of a stable block. Approved.

Site A and Site B – land to the north of the railway line

MA/03/1232 Relocation of existing station user car park to provide 600 station user car park spaces, ticket machine, taxi office, waiting shelter, new platform access, enhanced landscaping, security lighting and associated highway improvements. Withdrawn.

'Site C' – Existing Station Car Park

MA/03/1282 Redevelopment of land to provide a foodstore with associated parking, transport interchange and highway improvements with means of access, siting and landscaping for consideration now, with external appearance and design reserved for future consideration. Withdrawn.

MA/96/1304 Outline application for demolition of existing garage and erection of new supermarket with means of access and siting to be determined. Approved.

MA/96/0694 Change of use of car park to open market on Sundays only between the hours of 0700 and 1500. Approved.

'Site D' – Land to the West of the Station Car Park

MA/08/0895 Stationing of portable office building for use as taxi booking office (Renewal of MA/03/0717). Approved.

MA/05/0836 An application for the prior approval of the local planning authority for the installation of a 15m high telecommunications mast, 6 No panel antennae, 1 No 600mm dish antenna, 1 No 300mm dish antenna, 3 No outdoor Vodafone equipment cabinets, a 2.1m high compound fence and other development ancillary there. Approved.

MA/03/0717 Stationing of portable office building for use as taxi booking office. Approved.

MA/96/0266 Stationing of portable office building. Approved.

MA/92/0035 Change of use from storage and distribution (B8) to retail (market use). Approved.

MA/86/2034 Change of use for siting of tarmac production plant. Approved.

- MA/82/0680 Outline application for erection of small industrial units. Approved.
- MA/76/1452 Outline application for residential development. Refused.

2.1 Background

- 2.1.1 This application was submitted in 2012, and has previously been brought before Members (on 10 January 2013). At this meeting, Members resolved to defer the application on the basis that they were not satisfied that the landscaping and ecological mitigation was sufficient to address the impact of the proposal.
- 2.1.2 As such, further negotiation was undertaken with the applicant which has resulted in the submission of amended plans. These amended plans show an increase in landscaping provision within the car parking area, and also additional ecological enhancements to the proposal. These plans have now been sent out to a further public consultation (21 days) and have been considered once again by the necessary consultees.

3. CONSULTATIONS

- 3.1 **KCC Ecology** were consulted and made the following comments:
- 3.1.1 'Thank you for the opportunity to provide comments regarding the revised layout proposed for the northern section of this application.
- 3.1.2 The proposal now retains a wider corridor along the George Street boundary which provides improved connectivity between the east and west of the site than the previously submitted layout. We still have some reservations regarding the use of a culvert under the car park's entrance road to enable animals to move between the east and west sides of the site. This structure is now shown as being an 'oversized' culvert of approximately 1m wide by 0.75m high which again is an improvement on the previously submitted details, though in the annotation to drawing 1272/ECO6 Rev B it is stated that this will contain "*a suitably low level of water*", which would restrict the use of the culvert by reptiles.
- 3.1.3 We advise that Maidstone BC will need to be satisfied that the proposed permanent fencing and/or double-height kerbs around the car park can be maintained in perpetuity, if permission is granted.
- 3.1.4 In addition, if permission is granted, planning conditions/obligations should be used to require the submission for approval and implementation of a detailed

mitigation strategy and a habitat management plan. We have been informed by Aspect Ecology that Kent Wildlife Trust has agreed to take on the management of the wildlife areas. This has not been verified and we advise that the habitat management arrangements will need to be confirmed and secured for the long term, including the financial agreements.'

3.2 **Maidstone Borough Council Landscaping Officer** was consulted and made the following comments:

3.2.1 'The decision on this application was originally deferred to enable the following to be sought in respect of the area to the north of the railway line:-

- a) An improvement to the layout of the proposed car park and natural area;
- b) Mitigation for the damage to the countryside (including light pollution); and
- c) A re-examination of the results of the ecological surveys.

3.2.2 In addition to my previous comments on landscape details I would add the following comments which relate primarily to point a) above:-

3.2.3 Tree protection fencing is denoted on plan AA TPP 05. Whilst this is acceptable in principle the scheme could be improved by the continuation of protective fencing around entire areas proposed for soft landscaping. This will protect the ground from compaction and contamination and ensure optimal conditions for planting and seeding. This plan also shows parking bays located within the RPAs of tree nos. 47 to 49- details of levels are required to ensure that the construction of these bays do not compromise the trees' health and longevity.

3.2.4 The car park planting plan, drawing no. 5002/ASP5 revision E, does list native species but does not fully comply with the adopted LCA guidelines. I would particularly like to see the use of standard Oak trees within the hedgerow mix and the use of *Salix caprea* within the woodland/scrub mix. For the proposed tree planting, a small proportion of *Betula pendula* and *Salix fragilis* (in place of *Salix caprea*) should be included in appropriate locations. I would also add that there is no reference to marginal planting as shown in the landscape supporting statement.

3.2.5 Whilst previously I mentioned the importance of the detailing of the hard landscaping in conjunction with the new tree planting I would also like to see the use of linear tree planting trenches linking car park trees instead of individual planting pits. This is a way of maximising the rooting capacity of new trees thereby ensuring that they establish properly and are long lived.

3.2.6 The landscape details above can however still be dealt with through a pre commencement condition alongside the provision of a maintenance specification and a long term management plan'.

4. REPRESENTATIONS

4.1 A further round of public consultation has taken place. This has resulted in an *additional* 16 letters of objection being received. The contents of these letters are summarised below:

- There is no need for an additional petrol station in the village;
- The proposal is inefficient as passengers would have to cross the railway line to buy tickets;
- There is no need for an additional supermarket in the village;
- There is no need for a nature reserve in the village;
- The proposal would harm the countryside;
- The benefits of the proposal do not outweigh the harm caused;
- There are already Tesco supermarkets nearby;
- The existing taxi office would be lost;
- Development here would open the floodgates to further development north of the railway line;
- There would be an increase in traffic movements by virtue of this proposal;
- Is there really a need for a new car park for the station?

4.2 There have been five additional letters of support received since the previous planning meeting. The contents of these letters are summarised below:

- The proposal would result in increased competition within the village and lower prices;
- There would be increased custom within the village;
- There are no Tescos within the vicinity of the village;
- A nature reserve is most welcome within the village;
- The decision as to whether people prefer a Tesco or Sainsbury's is not a planning consideration;
 - Greater opportunities for employment in the village;
 - The existing open space is a mess and needs tidying up.

4.3 **Staplehurst Parish Council** were consulted on this amended application and made the following comments:

4.3.1 Further to your letter of 28th February the Parish Council considered the amended plans enclosed with your correspondence at its meeting on 18th March 2013 and voted to maintain its recommendation of REFUSAL of the application to MBC Planning Committee with only one councillor supporting the amended plan.

4.3.2 The reason for the Parish Council's recommendation were as follows:

- 1) The amended plans do not address in a satisfactory way the reasons for refusal set out in the Parish Council's recommendations on the original proposal (letter dated 12th March 2012). In its meeting the councillors particularly mentioned previously voiced concerns about the proposed highway arrangements, especially at the George Street/A229 junction; the flooding and drainage issues arising from the planned development north of the railway line; and the incomplete approach to station parking that ignores the current informal overflow car park. Under the amended proposal there is no real increase in parking spaces; if the current 'free area' were to be properly developed to the number could be increases in that way without encroaching to the north. The Parish council reiterates all th points set out in its previous recommendation of which a copy is enclosed for reference.
- 2) The application should take account of the context created by the planning consent for the Sainsbury's supermarket and particularly its new roundabout access to Station Road. It is clear that a new set of traffic lights would be incompatible with the consented roundabout about 50m away. The Parish Council believes the applicant should have adapted its plans to existing planning consents and, as it has not done so, the Parish Council objects for this further traffic reason.
- 3) The applicant has not revised paragraphs 5.0 and 8.0 of its Planning and Retail Statement. As the Borough Council's Planning Committee has granted consent to the adjacent Sainsbury's store, the Parish Council believes the Planning and Retail Statement now needs rewriting as it no longer addresses the latest existing shopping provision or the sequential approach to site selection.
- 4) The plans of the car park demonstrate no real consideration of the needs of fauna and flora on the north side of the railway line. Run-off from the car park surfaces, including salt and fuel spills, would adversely affect the ecology of the surrounding area. At the MBC Planning Committee on the 31st January 2013, Borough Councillor Harwood gave evidence that he had personal knowledge of the presence on site of a number of rare species including nesting nightingales, in addition to the great crested newt. News have a wide hinterland extending to 500m around their breeding ponds, yet the layout of car parks combined with the A229, George Street and the railway will prevent the newts travelling to and from their hinterlands. The Parish Council believes the development and subsequent contamination of the area would lead to a significant decline in the number of newts, possibly to zero, irrespective of the suitability of their ponds.

- 5) The application's renaming of the proposed wildlife area as a community garden suggests an area surrounded by a large car park, a main road and a railway will not be viable for wildlife. The Parish Council has no evidence of community support for a garden in this location. With open countryside all around and a peripheral setting, it is difficult to see any real incentive that will attract a significant community involvement in the garden.
- 6) The Parish Council has concern with the application in respect of policy:
 - a) At MBC's Planning Committee in January some Members gave weight to the emerging local plan and un-adopted Integrated Transport Strategy (ITS). The Parish Council questions the validity of basing decision upon un-adopted policy and believes in any event that the demands of such policy could be met under existing arrangements and that the amended plans add nothing to the case; indeed they put the disabled parking area and drop off point for the station further from the station entrance than they are at present.
 - b) The adverse environmental impact of the proposed development runs counter to one of the core planning principles of the Government's National Planning Policy Framework to 'take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.'
 - c) The potential flooding risks associated with the proposed cart-park development north of the railway line do not satisfy the flood management requirements of the NPPF (section 10, sections 100-103). S101 appears particularly appropriate: 'The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.' There are already parking sites (formal and informal) to the south of the railway line.
 - d) Nothing in the original proposal or the amended plans demonstrates that the application can satisfy the criteria for exceptions to policy ENV28 'in the countryside, planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers.' Neither does the applicant offer satisfactory proposals for 'measures for habitat restoration and creation to ensure that there is no net loss of wildlife resources.'
 - e) With specific reference to pond areas, the Parish Council submits that approval of the application would run counter to policy ENV41 'Development will not be permitted which would lead to the loss of ponds, wetlands or marshland, or

which would harm their visual and wildlife functions. Where the loss of a pond or area of wetland cannot be avoided, a condition will be imposed to ensure that a replacement is created.' The Parish Council questions how and where an effective replacement could be created.

Please contact me if you have any questions about the comments.'

5. CONSIDERATIONS

5.1 Site Description

5.1.1 The site description is as per the appended report.

5.2 Proposal

5.2.1 The proposal remains as set out within the appended report, save for a number of amendments to the car parking area. These amendments are set out below.

5.2.2 As set out above, the application was deferred by Members on the basis that the level of landscaping and ecological enhancements should be revisited around the proposed station car park. Amended plans have now been submitted, which show the following landscaping to be provided:

- Tree planting within the north-east corner of the site – to the north of the proposed open space.
- The retention of the existing trees within the western part of the open space – to the north of the water body.
- Additional tree planting to the southern side of this retained woodland.
- Clusters of native tree planting within the southern end of the open space.
- A seating area within the north-western portion of the open space.
- Wildflower meadow along the eastern boundary of the open space.
- Whip planting along the bank, adjacent to the A229 which will form new habitat.
- Proposed fence and hedge and fence planting around the existing water bodies.
- Pond re-profiling at the western end of the site.
- Permeable paving to all car parking spaces.
- A sensitive lighting scheme – details yet to be submitted.
- A re-alignment of some car parking to allow for wider landscaping strips.

5.3 Principle of Development/Policy Background

5.3.1 The application was previously heard at Planning Committee in January 2013, with an Officer recommendation for refusal. The ground for refusal was on the basis that there would be significant visual harm as a result of the proposal, and that the application would therefore prove to be contrary to Local Plan Policy

ENV28, as well as the guidance set out within the National Planning Policy Framework. Concern was also raised by Members with regards to the impact upon ecology within the site.

- 5.3.2 Since this report was taken, and the application deferred a report has been taken to Cabinet which gives further weight (although still less weight than the Maidstone Borough Wide Local Plan) to the emerging Policies within the new Local Plan. In particular, policies relating to Strategic Sites have been 'banked' for Development Management purposes. However, the Maidstone Borough Wide Local Plan (2000) remains the Development Plan for decision making purposes.
- 5.3.3 I do not consider that the decision made would have a significant impact upon the decision made upon this planning application.
- 5.3.4 Furthermore, since the previous Planning Committee meeting, the South East Plan (2009) has been revoked. Again, I do not consider that this change in the policy landscape would have a significant impact upon this proposal, nor its recommendation.
- 5.3.5 Since this application was taken to Planning Committee, the planning application for the Sainsbury's supermarket (MA/11/1944) which was resolved to grant at that meeting, has been approved. This does alter the background to this application to the extent that there is now greater certainty that this neighbouring proposal is more deliverable. However, in terms of the determination of this application (MA/12/0232), the matter of cumulative impact, both in terms of retail and highways impact, was fully considered in the previous report. I do not consider that the fact that there is greater certainty that the other proposal could be delivered results in the need for further work to be undertaken on this proposal in terms of cumulative impact. In terms of the sequential assessment, the fact that permission has been granted on neighbouring land does not significantly impact upon this application, as it was not considered that there was a significant difference between the sites sequentially in any event.
- 5.3.6 I therefore consider that the key points for consideration remain as per the previous report, and the discussion that took place at the previous Planning Committee meeting - i.e. the balance of the benefits of the proposal when assessed against the harm that it would cause to the character and appearance of the countryside, and ecology. The proposal will therefore continue to be assessed against the provisions of the existing Development Plan and the National Planning Policy Framework.

5.4 Visual Impact

- 5.4.1 The proposal has been amended in order to address the ground for refusal set out within the papers; together with Member's concerns about the impact that the proposal would have upon the character and appearance of the locality. Concern was raised with regards to the impact that the provision of car park would have to the north of the railway line, within this undeveloped area. The additional proposed landscaping would result in further screening from both the A229 and from George Street.
- 5.4.2 Negotiations have taken place between the Council and the applicants, which have sought to create an increased visual buffer within the proposed open space. The additional tree planting now proposed would further restrict views into the site from the A229, but this would not, in my opinion screen the car park from view. There would be a softening of this development, but the provision of a significant level of hardstanding, and lighting would remain visible from this busy highway.
- 5.4.3 The removal of a large amount of tree and shrub planting from within the centre of the site would have a significant impact upon the character and appearance of this parcel of land, irrespective of the amendments made to the development. This would be particularly apparent from the raised section of the A229. I therefore consider this to result in significant harm to the character and appearance of this parcel of land, and to result in the erosion of the open nature of this area of countryside.
- 5.4.4 With regards to the impact when viewed from George Street. The increased planting along this hedgerow would have a significant benefit. As set out within the previous report, the hedgerow along this stretch of road is sparse in places, with clear views through to the site. However, the provision of additional infilling, as well as more robust planting for the whole length of the site would significantly reduce the impact of this proposal when viewed from this country lane.
- 5.4.5 I remain of the opinion however, that the creation of a new access, together with the provision of lighting within the development would ensure that the site would remain visible, and that the character and appearance of this lane would fundamentally alter should this application be granted. This would have an urbanising effect upon the character of the locality, particularly during the winter months, when the lights would be on for longer periods, and when the trees/hedges have shed their leaves.
- 5.4.6 The efforts made by the applicant would reduce the impact of the proposal, however I remain of the view that the proposal would still have a significantly detrimental impact upon the character and appearance of the locality, and it is

for this reason, that I consider that it conflicts with both Local Plan Policy ENV28 as well as government guidance.

5.5 Residential Amenity

- 5.5.1 No concern was previously raised with regards to the impact of the proposal upon residential amenity. This proposal would result in an increase in additional landscaping, which would further reduce the impact of the proposal upon the neighbouring occupiers.
- 5.5.2 I therefore consider that the amendments would not result in an unacceptable impact upon the neighbouring occupiers.

5.6 Highways

- 5.6.1 The impact upon highways has previously been discussed within the previous report which is appended to this report. The amendments do not impact upon parking provision, or upon highway safety.

5.7 Landscaping

- 5.7.1 This proposal has sought to address Members concerns about the impact upon the appearance of the locality. This matter has been assessed within the visual assessment. In terms of the layout of the landscaping and the landscape officer raises some concern with regards to the tree protection measure proposed. I have spoken with the applicants who are content to address this measure, and have suggested that this be done by way of condition.
- 5.7.2 Furthermore, the applicant has proposed a small number of species that the Landscape Officer would wish to see altered. Again, the applicant has indicated that they would be willing to amend the species accordingly by way of condition.
- 5.7.3 Should these changes be implemented, then no objection is raised to the type and location of the planting.

5.8 Ecology

- 5.8.1 The impact upon ecology was raised by Members at the previous Planning Committee meeting. Whilst no concern was raised at that point by KC Ecology, it was noted that there were some outstanding concerns.
- 5.8.2 The applicant has sought to address these matters with the addition of further landscaping within the open areas, and also through the provision of new bunding between the car park and existing water bodies. Furthermore, an

enhanced culvert is proposed beneath the car park entrance to link the area to the east of the site to that at the west. Whilst KCC Ecology consider this a step forward, concern has been raised with regards to the provision of water within this culvert. Should permission be granted, it has therefore been agreed that this be amended, with full details to be submitted and agreed in writing by the Local Planning Authority.

- 5.8.3 It has been agreed that the Kent Wildlife Trust would manage the land in the long term should permission be granted. As such, I would expect them to be party to any legal agreement, or to be part of the management plan that would form part of any legal agreement should permission be granted.
- 5.8.4 As set out within the previous report, KCC Ecology, Natural England and the Kent Wildlife Trust raise no objection to this proposal, as they consider that the mitigation proposed would address the harm of the development. The further work undertaken by the applicant does not alter this view, and as such, no objection is raised on this basis.

6. Balance of Considerations

- 6.1 Whilst the applicant has made a significant effort to address the concerns raised within the previous report; and by Members at the January Planning Committee meeting, it remains the case that the proposal would result in the loss of the existing field. Consideration therefore needs to be given as to whether the amendments made to the plans are sufficient to overcome the concerns raised, and to reduce the level of harm to a level not considered to outweigh the benefits of the proposed store (and the enhancement of the parking provision).
- 6.2 It is my opinion that the loss of this field, and the encroachment of further development to the north of the railway line remains unacceptable. The provision of a significant level of hardstanding, together with lighting will fundamentally change the character and appearance of this currently undeveloped area of land. As set out within the previous report, it is acknowledged that there would be significant benefits of providing a retail unit within the village, both in terms of sustainability, and also in terms of the local economy through the provision of a significant number of jobs. It is also noted that the applicants are proposing enhancements of the station, and its links to the surrounding area. This does carry significant weight. Nonetheless, when considering the application against Policy ENV28 of the Maidstone Borough Wide Local Plan, and indeed the National Planning Policy Framework, the harm to the character and appearance of the locality also carries significant weight. I remain of the view that the railway line is a definitive physical boundary where the character changes from village/urban to countryside as one heads northwards. I remain of the view that the harm of this proposal is still of a level that overrides the benefits, for the reasons set out

within the report, and indeed within the previous report. I therefore recommend that the application be refused for the grounds set out below.

7. RECOMMENDATION

REFUSE planning permission for the reason given below:

1. The proposed station car park would result in the loss of a significant amount of open countryside through the provision of hardstanding, and other associated paraphernalia, to the detriment of the character and appearance of the site, located on a primary arterial route into Staplehurst. There is no overriding need for the provision of A1 retail at this location, and as such the proposal would be considered to conflict with Policy ENV28 of the Maidstone Borough Wide Local Plan (2000) and the aim of sustainable development as set out within the National Planning Policy Framework.